

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF WALLACE S.)	APPEAL NO. 06-A-2042
AND PENNY BROOKE, JR. from the decision of the)	FINAL DECISION
Board of Equalization of Bear Lake County for tax year)	AND ORDER
2006.)	

RURAL RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing October 13, 2006, in Paris, Idaho, before Presiding Officer David E. Kinghorn. Board Member Lyle R. Cobbs participated in this decision. Appellants Penny and Wallace Brooke, Jr. appeared at the hearing. Assessor Lynn Lewis and Appraiser Lori Stafford appeared for Respondent Bear Lake County. This appeal is taken from a decision of the Bear Lake County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. 5978.00.

The issue on appeal is the market value of a rural residential property, specifically the value attributable to the land.

The decision of the Bear Lake County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$333,100, and the improvements' valuation is \$51,480, totaling \$384,580. Appellant requests the land value be reduced to \$235,000, and the improvements' value be \$47,660, totaling \$282,660.

Subject property is 200 feet of usable lake frontage with a single-family residence located on Bear Lake, bordering Utah.

Taxpayers submitted three sales. Two of the sales were on the Utah portion of Bear Lake. Taxpayers did not supply the dates of sale. The third sale was located in Idaho close to subject. This sale included 60 feet of lake frontage and sold for \$115,000 or \$1,917 per front foot.

Appellants contend Bear Lake County does not patrol or enforce the rules around Bear Lake and that the use of the lakefront had changed dramatically because of noise, pollution and misuse of the land.

Respondent stated that Idaho Code requires annual assessments of all property reflect market value. Subject assessment was trended for the year 2006 because it was not physically inspected. To reflect a market value for lakefront property, Respondent applied a 1.65 factor to adjust older values of all parcels of the same category.

Respondent rated subject 10% better than the average of other similar properties because of condition. Appellants argued that the 10% rating was arbitrary and that a higher value should not be placed on subject because of landscaping.

Respondent submitted a lake frontage 2006 worksheet displaying five (5) sales in subject's area. Respondent broke down land components, particularly by available front footage and depth. The Assessor also removed the house value from the sales and displayed the 2006 adjusted sales per square footage. The sale dates ranged from February, 2004 to November, 2005. The adjusted sale price per front foot ranged from \$977 to \$3,324. Frontages ranged from 60 to 232 front feet. Subject was assessed at \$1,665 per front foot.

The County believes the property would sell for the assessed value.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code Section 63-208. Rules pertaining to market value – Duty of Assessor. Rules

promulgated by the State Tax Commission shall require each assessor to find market value for assessment purposes.

Idaho Code 63-201(10) defines market value:

“Market Value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The County explained how the assessed value was estimated. It was based on the sales available, even though some were quite dated. All were broken down to a front foot price. The indicated range of value was quite wide.

Taxpayers raised good points in connection with subject’s market value. However, no alternative comparable sales with complete information were submitted for consideration. The sales information provided was inadequate to draw land value conclusions from.

Market value is largely a factual issue. *Merris v. Ada County*, 100 Idaho 59, 593 P.2d 394 (1979). The State Constitution places an assumption of correctness on the tax assessment which must be overcome by a preponderance of the evidence. Idaho Code § 63-511(4). “A ‘preponderance of evidence’ is evidence that, when weighed with that opposed to it, has more convincing force and from which results a greater probability of truth.” *Harris v. Electrical Wholesale*, 141 Idaho 1, 3; 105 P.3d 267, 269 (2004).

The County correctly looked to available sales to determine subject’s market value. Appellants have proven no error, nor presented any appraisal analysis, nor alternate complete information for consideration. Under these circumstances the decision of the Bear Lake County Board of Equalization will be affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bear Lake County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

DATED this 28th day of February , 2007.